Case 1:08-cv-05293-DLC-MHD Document 3 Filed 07/09/2008 USDC SDNY DOCUMENT ECTRONICALLY FILED UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK ----X MICHAEL NASH, Petitioner, 08 Civ. 5293 (DLC) -v-: ORDER ROBERT ERCOLE, Respondent.

DENISE COTE, District Judge:

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") became effective on April 26, 1996. Among other things, AEDPA amends 28 U.S.C. § 2244 to require that habeas petitions brought under 28 U.S.C. § 2254 be filed no later than one year after the completion of state court direct review.

Nash' petition was received by the Pro Se office on May 12, 2008. He was denied leave to appeal by the New York Court of Appeals on July 20, 2006. His judgment of conviction became final within the meaning of AEDPA ninety days later, on October 20, 2006, when his time to file a petition for certiorari with the United States Supreme Court expired. Nash filed a motion under New York Criminal Procedure Law § 440.10 in the New York State Supreme Court, New York County, on July 24, 2007. It was denied on December 4, 2007. He appealed on December 17, 2007, and the Appellate Division denied his appeal on April 8, 2008.

The Court having concluded that the petition should not be summarily dismissed pursuant to Rule 4 of the Rules governing Section 2254 cases in the United States District Courts, it is hereby

ORDERED that the respondent file an answer to the petition or other pleading in response thereto, along with the record on appeal, appellate briefs, and relevant trial and post-conviction records and transcripts, no later than September 12, 2008.

IT IS FURTHER ORDERED that the Clerk of Court serve copies of this Order and of the petition by certified mail upon the respondent and the Attorney General of the State of New York.

IT IS FURTHER ORDERED that petitioner shall have thirty days from the date on which he is served with respondent's answer to file a response. The petition will be considered fully submitted as of that date.

IT IS FURTHER ORDERED that this action is referred to Magistrate Judge Dolinger. All correspondence and requests should be sent to the attention of Judge Dolinger.

SO ORDERED:

Dated: New York, New York

July 9, 2008

United States District Judge

Copy sent to:

Michael Nash Green Haven Correctional Facility P.O. Box 4000 Stormville, NY 12582-0010